

**REMARKS****Status of the Claims**

In the Office Action mailed March 19, 2007, claims 1-17 are pending. Claims 1, 2 and 16 were rejected. Claims 3-15 and 17 were objected to. The rejection is respectfully traversed. The Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein.

The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the following remarks.

**Claim Objections**

The Examiner objected to claims 3-15 and 17 as being dependent upon a rejected base claim, but indicated that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner is thanked for the indication of allowable subject matter. However, in light of the arguments presented herein, the Applicant believes that all of the claims in the application are allowable such that the amendment of these objected to claims is not warranted.

**Claim Rejections - 35. U.S.C. §102(e)**

Claims 1, 2 and 16 are rejected under 35. U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,065,471 to Schaeffer, et al., (hereinafter "Schaeffer"). For anticipation under 35 U.S.C. § 102 the reference must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02).

Schaeffer discloses an inhalation device from which metered doses of medicament may be dispensed to a user. Specifically, the inhalation device includes a reservoir 6 for dry powdered medicament, an outlet 7 and a dosing member 3 having a metered recess 22 formed therein for receiving medicament. (Col. 1, ll. 31-46.) Adjacent the outlet 7 is an aperture 8 which communicates with the dosing member 3. (Col. 2, ll. 61 - col. 3, ll. 7.) An aperture 11 is disposed in the device through which powder can pass from the reservoir 6 to the dosing member 3. (Col. 4, ll. 8-10.) The dosing member 3 can be moved between a first position in which the recess 22 communicates with the reservoir 6 to receive a dose of powdered medicament through aperture 11, and a second position in which the recess 22 communicates with the outlet 7, through aperture 8, such that a user can inhale the medicament deposited into the recess 22. (Col.1, ll. 31-46.)

The Examiner asserts that Schaeffer anticipates claim 1 by arguing that Schaeffer discloses "a cup assembly [dosing member 3] movably received in the channel and including, a recess [22] adapted to receive medicament when aligned with the dispensing port [8] . . . ." (Office Action p. 2.) Thus, the Examiner likens aperture 8 to the claimed dispensing port. Contrary to the Examiner's assertion, Schaeffer does not disclose the recess receiving medicament "when aligned with the dispensing port," as recited in claim 1. At a first position, Schaeffer's dosing member 3 is turned such that the recess 22 is directly below aperture 11, permitting medicament to flow from the reservoir 6 to the recess 22. (Col. 5, ll. 9-19.) Then, the user rotates the dosing member 3 to a second position to bring the recess into alignment with the aperture 8 adjacent the outlet 7. (Col. 5, ll. 30-42.) The user then inhales using the outlet 7 such that the medicament is carried by the airflow to the user. (Id.) Thus, the Examiner is mistaken when he argues

that the recess of Schaeffer receives medicament when aligned with the dispensing port 8. In actuality, Schaeffer discloses that when the recess 22 is aligned with the dispensing port 8, the medicament is dispensed, not received. Thus, Schaeffer fails to disclose, "a recess adapted to receive medicament when aligned with the dispensing port," as recited in claim 1.

Further, in arguing that Schaeffer discloses additional features recited in claim 1, the Examiner fails to be specific. In likening aperture 11 to the claimed pressure relief port, the Examiner fails to show how the aperture 11 functions as a pressure relief port. Further, the Examiner fails to indicate where Schaeffer discloses first and second sealing surfaces. Even interpreting surface 21 of the dosing member 3 to provide first and second sealing surfaces, the Examiner fails to explain how the second sealing surface unseals the pressure relief port when the recess is not aligned with the dispensing port, as required by the last paragraph of claim 1. Because the dosing member 3 is circular in nature and the pressure relief port 11 is located 180° from the dispensing port 8, when the recess 22 is not aligned with the dispensing port 8, it does not necessarily mean that the pressure relief port 11 has been unsealed. (See col. 5, ll. 30-32) The recess 22 has to travel 180° away from dispensing port 8 to unseal pressure relief port 11. (In fact, both the pressure relief port 11 and the dispensing port 8 may be sealed at the same time as the dosing member 3 is rotated.) Therefore, Schaeffer fails to disclose a sealing surface "adapted to . . . unseal the pressure relief port when the recess is not aligned with the dispensing port," as recited in claim 1.

Further, Schaeffer also does not teach or suggest "a linear channel communicating with the dispensing port," as recited in claim 1. When the dosing member is turned between a receiving position and a dispensing position, either one of

apertures 8 or 11 is sealed at any time. Therefore, the linear channel does not communicate with the dispensing port.

In addition, Schaeffer does not teach or suggest "a cup assembly movably received in the channel," as recited in claim 1. In asserting that Schaeffer's dosing member 3 is the cup assembly, the Examiner is mistaken when he asserts that Schaeffer's dosing member 3 is movably received in the channel. Although Schaeffer's dosing member 3 rotates to dispense and receive medicament, Schaeffer's dosing member 3 is neither received in a linear channel, nor is it therefore movably received in one, as recited in claim 1.

Since each and every element set forth in the claim is not found in Schaeffer, either expressly or inherently described as required by the M.P.E.P., Schaeffer cannot be said to anticipate claim 1. Accordingly, withdrawal of the rejection is respectfully requested.

Further, Schaeffer does not teach or suggest "a sealing spring biasing the first sealing surface against the reservoir," as recited in claim 2. Schaeffer's spring 25 is disposed with the dosing member 3 and is depressed radially therein. Therefore, the spring 25 biases pawl 24 against shaft 13, not the reservoir.

Claim 16 depends from claim 1. Because claim 1 is believed to be in condition for allowance, claim 16 is also believed to be in condition for allowance, at least by reason of this dependency. Accordingly, withdrawal of the rejection is respectfully requested.

Claim 11 has been objected to as requiring a correction for a misspelling. An amendment correcting the error is hereby submitted.

CONCLUSION

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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